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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 243 SHS

5 JOSEPH McGOWAN,

6 Defendant.

7 -----x

8
9 July 27, 2018
9:35 a.m.

10
11
12 Before:

13 HON. SIDNEY S. STEIN,

14 District Judge

15
16 APPEARANCES

17
18 GEOFFREY S. BERMAN,

United States Attorney for the
Southern District of New York

19 ROBERT B. SOBELMAN,

20 Assistant United States Attorney

21
22 GLENN A. GARBER,

Attorney for defendant McGowan

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1 (In open court)

2 (Case called)

3 THE COURT: Good morning. The defendant is present.

4 Do you have an application, sir?

5 MR. GARBER: Yes, we have an application to enter a
6 plea of guilty today to the first count of the indictment.

7 THE COURT: Is the plea agreement that I have that was
8 just given to me identical, Mr. Sobelman, to the version that
9 was emailed to my Chambers yesterday or this morning?

10 MR. SOBELMAN: Yes, your Honor. Just to confirm, it
11 is dated July 24th, 2018.

12 THE COURT: Yes, sir.

13 MR. SOBELMAN: Yes, your Honor.

14 THE COURT: Would you swear the defendant, please.

15 (The defendant was duly sworn)

16 THE COURT: Mr. McGowan, I did not hear you respond
17 when my Deputy asked. Did you respond?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: Mr. McGowan, do you understand that you're
20 now under oath, sir, and if you answer any of my questions
21 falsely, your false or untrue answers may be later be used
22 against you in another prosecution for perjury or making a
23 false statement?

24 THE DEFENDANT: Yes.

25 THE COURT: You may be seated in the back of the

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1 courtroom.

2 MR. GARBER: Is it okay if we sit, too?

3 THE COURT: I would like Mr. McGowan to stand unless
4 there is some issue?

5 MR. GARBER: No. I will stand with him then.

6 THE COURT: You don't have to.

7 MR. GARBER: I will. If he is standing, I will.

8 THE COURT: You have an attorney who stands with you,
9 sir. I could have told you that before.

10 How old are you, Mr. McGowan?

11 THE DEFENDANT: 32.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: Sophomore year of college.

14 THE COURT: Are you able to read, write, speak and
15 understand English?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: That is your native language, right?

18 THE DEFENDANT: Yes.

19 THE COURT: Are you now or have you recently been
20 under the care of a doctor or a psychiatrist?

21 THE DEFENDANT: Yes.

22 THE COURT: What is that, a doctor or a psychiatrist,
23 or both?

24 THE DEFENDANT: Psychiatrist and a psychologist since
25 I got arrested.

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1 THE COURT: Why are you seeing both of those
2 individuals?

3 THE DEFENDANT: Mental health evaluation and drugs.

4 THE COURT: Is one of those for drug treatment?

5 THE DEFENDANT: Yes.

6 THE COURT: And the other, I take it, is for some form
7 of depression or nervousness or something along those lines?

8 THE DEFENDANT: Yeah, all with the drugs.

9 THE COURT: Now, have you ever been treated or
10 hospitalized for any adult illness, hospitalized?

11 THE DEFENDANT: No.

12 THE COURT: Have you ever been treated, apart from the
13 doctor you are now seeing, for any mental illness?

14 THE DEFENDANT: Just ADHD when I was younger.

15 THE COURT: Have you ever been treated or hospitalized
16 for any addiction, including drug or alcohol addiction, apart
17 from the treatment you're now undergoing by the psychologist?

18 THE DEFENDANT: No. That was something I tried to
19 handle on my own, which --

20 THE COURT: Did you ever receive inpatient treatment?

21 THE DEFENDANT: No.

22 THE COURT: In the past 24 hours, sir, have you taken
23 any drugs, medicine or pills or consumed any alcohol?

24 THE DEFENDANT: No.

25 THE COURT: Is your mind clear today, sir?

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1 THE DEFENDANT: Yes.

2 THE COURT: Are you feeling okay?

3 THE DEFENDANT: As good as I can, yes.

4 THE COURT: Do you have an attorney here?

5 THE DEFENDANT: Yes.

6 THE COURT: Who is that?

7 MR. GARBER: Mr. Glenn Garber.

8 THE COURT: Mr. Garber, do you have any doubt as to
9 your client's competence to plead today?

10 MR. GARBER: No.

11 THE COURT: You heard Mr. Garber tell me that you wish
12 to withdraw your plea of not guilty and to enter a plea of
13 guilty today. Is that true, do you wish to enter a plea of
14 guilty to Count 1?

15 THE DEFENDANT: Yes.

16 THE COURT: Have you had a full opportunity to discuss
17 your case with Mr. Garber and to discuss the consequences of
18 entering a plea of guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you satisfied with Mr. Garber and his
21 representation of you?

22 THE DEFENDANT: Yes.

23 THE COURT: On the basis of Mr. McGowan's responses to
24 my questions and my observations of his demeanor as he stands
25 here before me, I make the finding he is fully competent to

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1 enter an informed plea at this time.

2 Before I accept the plea -- you can turn around, sir.
3 Other people have come into the courtroom if you want to take a
4 look -- before I accept a plea from you, sir, I am going to be
5 asking you a series of questions. These questions are intended
6 to satisfy me that you wish to plead guilty because you are
7 guilty and determine that you fully understand the consequences
8 of entering this plea.

9 I am going to be describing to you certain rights you
10 have under the Constitution and laws of the United States. You
11 are going to be giving up those rights if you enter a plea of
12 guilty, Mr. McGowan.

13 I need you to listen to me very carefully, and if you
14 don't understand anything I am saying to you or if you don't
15 understand anything I am asking you, I want you to stop me, you
16 can ask me anything you want, you can ask Mr. Garber anything
17 you want. My concern is to make certain you understand
18 everything I am asking you and that you understand everything I
19 am saying to you. Do you understand that, sir?

20 THE DEFENDANT: Yes.

21 THE COURT: Under the Constitution and laws of the
22 United States, Mr. McGowan, you have a right to a speedy and
23 public trial by a jury on the charges against you which are
24 contained in Indictment 17 Cr. 243.

25 Do you understand those rights?

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1 THE DEFENDANT: Yes.

2 THE COURT: If there were a trial, you would be
3 presumed innocent, and the government would be required to
4 prove you guilty by competent evidence and beyond a reasonable
5 doubt. You would not have to prove you were innocent at a
6 trial. Do you understand those rights?

7 THE DEFENDANT: Yes.

8 THE COURT: If there were a trial, a jury composed of
9 twelve people selected from this district would have to agree
10 unanimously that you were guilty. Do you understand those
11 rights?

12 THE DEFENDANT: Yes.

13 THE COURT: You have a right to be represented by an
14 attorney at trial and at every other stage of the proceedings
15 against you. If you cannot afford an attorney, one will be
16 provided to you at no cost to you. Do you understand those
17 rights?

18 THE DEFENDANT: Yes.

19 THE COURT: If there were a trial, you would have a
20 right to see and hear all of the witnesses against you, and
21 your attorney could cross-examine them, you would have the
22 right to have your attorney object to the government's evidence
23 and offer evidence on our own behalf if you so desired, and you
24 would have the right to have subpoenas issued or other
25 compulsory process used to compel witnesses to testify in your

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1 defense. Do you understand those rights?

2 THE DEFENDANT: Yes.

3 THE COURT: If there were a trial, you would have the
4 right to testify if you wanted to, but no one could force you
5 to testify if you did not want to testify. In addition, no
6 inference or suggestion of guilt could be drawn against you if
7 you choose not to testify at your trial. Do you understand
8 those rights?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that by entering a plea
11 of guilty today, you're giving up each and every one of those
12 rights that I've been describing, you're waiving each of those
13 rights and that there will be no trial in this action against
14 you?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that you have the right
17 to change your mind right now and refuse to enter a plea of
18 guilty? You do not have to enter this plea if you do not want
19 to for any reason whatsoever. Do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you received a copy of the indictment
22 against you, 17 Cr. 243?

23 THE DEFENDANT: Yes.

24 THE COURT: Did you read it?

25 THE DEFENDANT: Yes.

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1 THE COURT: Did you discuss it with your attorney?

2 THE DEFENDANT: Yes.

3 THE COURT: You have the right to have me read that
4 indictment now in open court, but if you don't want me to read
5 it, you have the right to waive my reading of it. Do you want
6 me to read it or not?

7 THE DEFENDANT: No, thank you.

8 THE COURT: I accept that as a knowing and voluntary
9 waiver of the right to have the indictment read in open court.

10 Do you understand you're charged in Count 1, sir, with
11 participating in a conspiracy to commit wire fraud, in
12 violation of Title 18, United States Code, Section 1349. Do
13 you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that if you did not
16 plead guilty, the government would have to prove each and every
17 part or element of the charge in Count 1 against you beyond a
18 reasonable doubt at a trial?

19 THE DEFENDANT: Yes.

20 THE COURT: Mr. Sobelman, would you tell Mr. McGowan
21 what the elements are the government would have to prove beyond
22 a reasonable doubt in order for a jury to return a verdict of
23 guilty against him.

24 MR. SOBELMAN: Yes, your Honor.

25 Title 18, United States Code, Section 1349, as charged

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1 in Count 1 of the indictment, has two elements:

2 First, two or more persons in some way or manner
3 agreed to try to accomplish a common and unlawful plan to
4 commit wire fraud; and

5 Two, the defendant knew the unlawful purpose of the
6 plan and willfully joined in it.

7 Would your Honor like me to describe the elements of
8 wire fraud?

9 THE COURT: Yes.

10 MR. SOBELMAN: Wire fraud has three elements:

11 That a scheme was devised to defraud or to obtain
12 money or property by materially false or fraudulent pretenses,
13 representations or promises;

14 That there was an intent to defraud, and that in
15 advancing, furthering or carrying out the scheme, there was
16 transmitted any writing, signal or sound by means of a wire,
17 radio or television communication in interstate commerce, or
18 that any transmission was caused of that kind in interstate
19 commerce.

20 THE COURT: Do you understand, sir, that those are the
21 elements the government would have to prove beyond a reasonable
22 doubt?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you also understand that the maximum
25 possible penalty of the crime of participating in a conspiracy

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1 to commit wire fraud is a maximum term of imprisonment of 20
2 years, plus a maximum term of supervised release of three
3 years, plus a maximum fine of the greatest of \$250,000 or twice
4 the gross pecuniary gain derived from the offense or twice the
5 gross pecuniary loss to individuals other than you resulting
6 from the offense, plus a \$100.00 mandatory special assessment?

7 In addition, the court must order restitution from you
8 to those injured as a result of your criminal conduct. Do you
9 understand that that's the maximum possible penalty?

10 THE DEFENDANT: Yes.

11 THE COURT: Now I was telling you the maximum possible
12 penalty, and I said part of it was up to 20 years in prison and
13 part of it is up to three years supervised release.

14 I wish to inform you, sir, that "supervised release"
15 means you're going to be subject to monitoring upon your
16 release from prison, and that monitoring is to be under terms
17 and conditions that could lead to your return to prison without
18 any jury trial for all or part of the term of supervised
19 release and without credit for time previously served on
20 post-release supervision if you violate any term or condition
21 of supervised release. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if I accept your
24 guilty plea and determine that you are guilty, that
25 determination may deprive you of such valuable civil rights,

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1 such as the right to vote, the right to hold public office, the
2 right to serve on a jury and the right to possess any kind of
3 firearm?

4 THE DEFENDANT: Yes.

5 THE COURT: Mr. Garber, is your client a United States
6 Citizen?

7 MR. GARBER: Yes, he is, Judge.

8 THE COURT: Mr. McGowan, under current law there are
9 sentencing guidelines that judges such as myself must utilize
10 in applying the factors set forth in 18 United States Code
11 Section 3553 (a) to determine a reasonable and fair and
12 appropriate sentence in your case. Have you talked to Mr.
13 Garber how the sentencing guidelines work?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that I won't be able to
16 determine what the guideline range is in your case until after
17 I have received a presentence report that is going to be
18 compiled by the United States Probation Office, which is an arm
19 of this Court. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: The Probation Office is going to interview
22 you. Mr. Garber can be there if he wishes, and I want you to
23 give them accurate and complete information because the
24 information you give them is going to be a part of the basis of
25 the report. I imagine they're going to check the validity of

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1 the information you give them but, in any event, they will use
2 the information in that report, and I am going to use that
3 report to help guide me in determining what an appropriate
4 sentence is. So I want you to give them complete and accurate
5 information. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: After that report comes out, you and Mr.
8 Garber and Mr. Sobelman, for that matter, will have the ability
9 to challenge any of the facts set forth therein. If anyone
10 objects to those facts, I will, if needed, make a determination
11 on those facts and ultimately determine what the appropriate
12 guideline range is in your case, but after I do that, sir, I
13 have the ability to impose a sentence in your case based on a
14 departure from the guidelines.

15 In other words, I can below the guideline range or I
16 can sentence you above the guideline range on the basis of a
17 departure. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Even after I do that; that is, even after
20 I determine what the appropriate guideline range is, and after
21 I determine whether I should depart upward or downward from the
22 guideline range, I then have to apply all of the factors in
23 Section 3553 (a) to determine what sentence is fair and
24 appropriate and reasonable and sufficient, but not greater than
25 necessary to meet the ends of the criminal justice system.

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1 Do you understand that process of sentencing?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that if you're sentenced
4 to prison -- and my working assumption at this point based on
5 the guidelines the parties have agreed to is you will be
6 sentenced to prison -- the system of parole that used to exist
7 in the federal system has been abolished and you are not going
8 to be released any earlier on parole.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that if Mr. Garber or
12 Mr. Sobelman or anyone else or any of your family members or
13 just anybody has tried to estimate or predict what your
14 sentence is going to be, or they've told you what your sentence
15 is going to be, that those estimations or predictions or hopes
16 or statements, whatever they may be, all may be wrong.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: As I am the one to sentence you, and I
20 don't know what your sentence is going to be because I just
21 don't know enough about your crime, your history, about you and
22 your upbringing, your employment in order to be able to follow
23 the dictates of Section 3553 (a) and sentence you
24 appropriately.

25 Do you understand that if the "predictions" that

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1 anyone has made or the expectations or hopes and fears of
2 anyone in regard to what your sentence is going to be may not
3 be brought out, and even if you yourself have an expectation as
4 to what your sentence is going to be, you'll not be allowed to
5 withdraw your guilty plea if those expectations are not met.
6 You are going to be bound to this guilty plea.

7 If I sentence you to something different than what you
8 think it is going to be, you still are going to be bound to the
9 guilty plea. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: I have been given a letter, dated July 4.
12 I asked Mr. Sobelman about it earlier, and it has a variety of
13 signatures on it. It is a six-page letter. It is addressed to
14 Mr. Garber, and it appears to be signed by Mr. Sobelman. Is
15 that correct, sir?

16 MR. SOBELMAN: Yes, your Honor.

17 THE COURT: I am going to ask my Deputy to mark it as
18 Government Exhibit No. 1, and I will refer to it as the plea
19 agreement, sir. I am going to ask my Deputy to show you the
20 last page. Is that your signature on the last page?

21 THE DEFENDANT: Yes.

22 THE COURT: Did you read that document before you
23 signed it?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Did you discuss it with Mr. Garber before

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1 you signed it?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Did he answer your questions or any
4 questions you may have had about it?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you fully understand the agreement now?

7 THE DEFENDANT: Yes.

8 THE COURT: Did you fully understand it at the time
9 you signed it?

10 THE DEFENDANT: Yes.

11 THE COURT: Does this letter agreement, Government
12 Exhibit No. 1, constitute your complete and total understanding
13 of the entire agreement between the government, Mr. Garber and
14 yourself?

15 THE DEFENDANT: Yes.

16 THE COURT: Is everything about your plea and sentence
17 contained in this agreement?

18 THE DEFENDANT: Yes.

19 THE COURT: Sir?

20 THE DEFENDANT: Yes.

21 THE COURT: Are there any side deals that I should
22 know about? Is there anything left out of this agreement that
23 I should know about?

24 THE DEFENDANT: No.

25 THE COURT: Has anyone offered you any inducements or

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1 threatened you or forced you to plead guilty or to enter into
2 this plea agreement?

3 THE DEFENDANT: No.

4 THE COURT: Do you understand that in this plea
5 agreement, sir, you're agreeing to forfeit to the United States
6 \$1,763,582.05. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Somebody will tell me at some point how
9 they came up with the 5 cents. That is a substantial amount of
10 money, and you have agreed to forfeit it.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand, sir, that you've also
14 agreed to make restitution to the victims of this conspiracy in
15 the same amount?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that you've agreed and
18 stipulated that the guideline range in your case is 78 to 97
19 months in prison?

20 THE DEFENDANT: Yes..

21 THE COURT: Do you understand that you have agreed to
22 waive your right to appeal this sentence and you have agreed to
23 waive your right to collaterally attack the sentence if I
24 sentence you to 97 months in prison or less?

25 Do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that you've agreed
3 not to appeal any forfeiture amount --

4 THE DEFENDANT: Yes.

5 THE COURT: -- that is equal to or less than the sum I
6 said before; that is, \$1,763,582.05?

7 THE DEFENDANT: Yes.

8 THE COURT: You've also agreed not to appeal any
9 restitution amount that is equal to or less --

10 THE DEFENDANT: Yes..

11 THE COURT: -- than \$1,705,586.05? Do you understand
12 that?

13 THE DEFENDANT: Yes.

14 THE COURT: Now, Mr. Sobelman, I don't need the
15 details at this point, but there does appear to be a slight
16 difference between the forfeiture amount and restitution
17 amount. Was that purposeful?

18 MR. SOBELMAN: Yes, your Honor.

19 THE COURT: So I may have misspoken before and I
20 didn't realize there was a difference between those two sums,
21 so let me make sure you do understand.

22 You've agreed to forfeit \$1,763,582.05. Do you
23 understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: And you've agreed to make restitution to

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1 victims in the sum of \$1,705,586.05. Do you understand that?

2 THE DEFENDANT: Yes.

3 MR. GARBER: Judge, can I have one moment?

4 THE COURT: Yes.

5 (Off-the-record discussion)

6 THE COURT: Are the parties intending I sign the
7 consent preliminary order of forfeiture now or wait until the
8 sentencing?

9 MR. SOBELMAN: Typically, we wait until sentencing.

10 There are blanks on the form we can do and submit it
11 at that time, but we defer to the court.

12 THE COURT: That is all right. It is up to the
13 parties. Mr. Garber, are you aware of any valid defense that
14 would prevail at trial or do you know of any reason why Mr.
15 McGowan should not be permitted to plead guilty this morning?

16 MR. GARBER: No.

17 THE COURT: Is there an adequate factual basis in the
18 record here to support your client's plea of guilt?

19 MR. GARBER: Yes.

20 THE COURT: Mr. Sobelman, in the view of the
21 government, is there an adequate factual basis to support the
22 defendant's plea?

23 MR. SOBELMAN: Yes, your Honor.

24 THE COURT: Mr. McGowan, tell me now what you did that
25 makes you guilty of Count 1.

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1 THE DEFENDANT: Between October --

2 THE COURT: Just a moment. First of all, I see you're
3 starting to read something, so slow down a little because it
4 has to be recorded.

5 Secondly, what you're reading from, often usually a
6 lawyer will assist you in drafting that. That is perfectly all
7 right, but what I need to know before you start reading it is
8 that everything you say in it is, in fact, true regardless of
9 whether your lawyer assisted in drafting or for that matter
10 drafting it. Can you tell me what you're about to tell me is
11 true?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Go ahead. What did you do?

14 THE DEFENDANT: Between October 2013 and March 2017, I
15 agreed with others to defraud customers in telemarketing
16 businesses.

17 THE COURT: You agreed with others to do what?

18 THE DEFENDANT: Defraud customers through
19 telemarketing businesses.

20 THE COURT: All right.

21 THE DEFENDANT: We defrauded customers. The
22 businesses were the Carlyle Management Group and Vanguard
23 Business Consultants. We defrauded customers by persuading
24 them, through false promises, to pay for services, including
25 website creation and training that was supposed to generate

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1 income from home businesses. We knew what we were doing was
2 illegal, and some of our conduct occurred in Manhattan.

3 THE COURT: What occurred in Manhattan?

4 THE DEFENDANT: We had a virtual office in Manhattan
5 to receive the checks.

6 THE COURT: Checks from the victims were sent to an
7 office in Manhattan?

8 THE DEFENDANT: All of our mail.

9 THE COURT: Through mail?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. You knew that what you were
12 doing was wrong and illegal, correct?

13 THE DEFENDANT: Yes.

14 THE COURT: The government, tell me the evidence you
15 have against Mr. McGowan.

16 MR. SOBELMAN: Your Honor, if the case were to proceed
17 to trial, the evidence would include cooperating witness
18 testimony, victim testimony, the contents of electronic devices
19 and email accounts and other types of electronic evidence that
20 had been gathered in the course of the case as well as hard
21 copy documents that were seized from, among other places, Mr.
22 McGowan's businesses.

23 THE COURT: All right. Can you be more specific about
24 what you have regarding Mr. McGowan, unless you're telling me
25 he was the only one in the businesses that he mentioned, which

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1 I doubt was the case.

2 MR. SOBELMAN: No, your Honor. Specifically we would
3 show Mr. McGowan founded and was the leader of the two
4 businesses that he named and that he hired and instructed
5 others to engage in the fraudulent telemarketing practices Mr.
6 McGowan allocuted to.

7 THE COURT: Again what evidence do you have supporting
8 it?

9 MR. SOBELMAN: We have cooperator testimony, we have
10 victim testimony.

11 THE COURT: About his involvement?

12 MR. SOBELMAN: Correct. There would be victim
13 testimony about the individuals that he employed and instructed
14 to defraud them.

15 THE COURT: Normally these people use fake names?

16 MR. SOBELMAN: Yes, your Honor. Through cooperator
17 testimony and documentary evidence, we would be prepared to
18 show which fake names lined up with which real people.

19 THE COURT: Anything else?

20 MR. SOBELMAN: We would also have financial records,
21 including the checks that Mr. McGowan referenced in his
22 allocution that would show the funds flowing from victims to
23 Mr. McGowan's companies and some of that money flowing then to
24 him personally.

25 THE COURT: Thank you.

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1 Mr. McGowan, how do you now plead to the charge in
2 Indictment 17 Cr. 243, guilty or not guilty, sir?

3 THE DEFENDANT: Guilty.

4 THE COURT: Are you pleading guilty because you are
5 guilty?

6 THE DEFENDANT: Yes.

7 THE COURT: Are you pleading guilty voluntarily and of
8 your own free will?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Garber, do you want me to make any
11 further inquiries?

12 MR. GARBER: No. It is not necessary.

13 THE COURT: Mr. Sobelman?

14 MR. SOBELMAN: No, your Honor.

15 THE COURT: Mr. McGowan, because you acknowledge
16 you're guilty as charged, because I find you know your rights
17 and are waiving them knowingly and voluntarily, because I find
18 your plea is entered knowingly and voluntarily and is supported
19 by an independent basis in fact containing each of the
20 essential elements of the offense that you have pled to, I
21 hereby accept your guilty plea, sir, and adjudge you guilty of
22 Count 1 of Indictment 17 Cr. 243.

23 I am setting a date for sentencing for December 3, at
24 2:30 pm, or any adjourned date as the date for sentencing. The
25 date for sentencing now is December 3. I have the ability to

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1 adjourn it if I deem it appropriate. Is there any application
2 from the government in regard to bail?

3 MR. SOBELMAN: No, your Honor.

4 THE COURT: Mr. McGowan, essentially what I just asked
5 the government is are they moving for your remand, and
6 essentially what Mr. Sobelman said is no.

7 I am going to release you now on all the conditions
8 that you have been released up to now. In other words, all of
9 the conditions of bail that you've been out on continue to
10 apply and any violation of any of those conditions will be
11 severe. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand, Mr. McGowan, that if
14 you fail to return to this courtroom on December 3, at 2:30 pm,
15 or any date I adjourn it to, you are going to be guilty of a
16 criminal act for which you could be sentenced to imprisonment
17 separate, apart from and in addition to any other sentence you
18 might receive for the crime to which you have just pled guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. I will see you on December 3.

21 Thank you.

22 (Court adjourned)